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# Seattle Police Department

# DIRECTIVES

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Date: April 1<sup>st</sup>, 2005

Directive: D 05-016

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## Department Policy Governing Less Lethal Options: The Taser and the Patrol Less Lethal Shotgun with Beanbag Rounds

Philosophy and Guidelines on the Use of Less Lethal Options. The use of less lethal options by SPD officers – as with all applications of force - is governed by the provisions of RCW 9A.16.010 and 9A16.020, by which officers are expected to use necessary and reasonable force to effect a lawful purpose.<sup>1</sup> As with all uses of force, “necessary and reasonable” uses of less lethal devices are defined by the totality of circumstances that confront officers. It is not possible to specify in advance all the various scenarios under which less lethal systems are likely to be deployed, but it is possible to identify the *types of situations* for which less lethal options are intended, as well as those for which they are not.

Less lethal devices are intended to provide officers with a force option that may be appropriately used when necessary to confront any of the following circumstances:

- ✓ to overcome a subject’s combative intent, physical resistance, and/or assaultive behavior, or
- ✓ to control, disable or subdue persons bent on harming themselves or others, or
- ✓ to provide self-defense.

At the same time, less lethal devices may not be used where statutory requirements for use of force cannot be satisfied. Examples include use of less lethal devices against non-combative/non-resistant subjects, or for the purpose of recovering evidence or compelling compliance, absent suspect resistance justifying the legal application of necessary force. In no situation are officers required to use less force than is being threatened by a subject. Less lethal devices provide officers with alternative resolutions short of the use of deadly force. Factors that may be taken into account when considering use of these alternatives include, but are not limited to:

- ✓ the amount of time the officer has to react to the threat,
- ✓ the officer’s relative proximity to the person(s) posing the threat,
- ✓ the immediacy of the need to incapacitate the subject;
- ✓ the officer’s ability to isolate or contain the person(s) posing the threat;
- ✓ the limitations of the less lethal device being employed, and
- ✓ the belief that the application is likely to be successful.

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<sup>1</sup> Under RCW 9A16.010(1) “Necessary” means that no reasonably effective alternative to the use of force appear to exist and that the amount of force used was reasonable to effect the lawful purpose intended. Under RCW 9A16.020 [T]he use, attempt, or offer to use force . . . is not unlawful . . . (1) Whenever necessarily used by a public officer in the performance of a legal duty . . . .”

In the interests of public and officer safety, less lethal options shall not be employed against lethal threats except when lethal cover is available and in place to provide protection for the officers employing these tools as well as innocent parties who are not involved.

The Department's training curricula provide an assessment of less lethal options from a use of force perspective<sup>2</sup>. This is to let officers know how these devices compare to other uses of force with which they may be more familiar. Because such assessments do not account for the totality of circumstances faced by officers that may warrant a greater or lesser force response, they remain guidelines and do not substitute for the professional judgment of officers in individual cases.

The Department's Less Lethal Options Program is coordinated and administered by the Deputy Chief for Operations, with oversight provided by Command Staff and ongoing research and recommendations provided by the Force Options Research Group (FORG).

To ensure the orderly, consistent, and safe deployment of less lethal devices, the Department has developed a Less Lethal Options Training Guideline. The Guideline applies not only to officers certified to use less lethal devices, but also to those in the Department charged with equipping, supplying, training, supervising, and commanding these officers. Employees who perform any of these roles related to less lethal devices should, therefore, be cognizant of the Guideline and adhere to its principles and procedures. The Less Lethal Options Training Guideline and associated less lethal training materials are maintained by the Deputy Chief for Operations, the Advanced Training Section, and the SWAT unit, from which Department employees may obtain copies.

Department Policy and Procedures. For quick reference and information, this Directive summarizing the Department's Less Lethal Options Policy is provided. This synopsis should not be regarded as a substitute for a thorough reading of, and familiarity with, the full Less Lethal Options Training Guideline.

## 1) QUALIFICATION AND CERTIFICATION

- a) Sworn personnel will be selected for less lethal device training by the Deputy Chief for Operations, in consultation with Precinct Commanders and Command Staff. In making officer selections, consideration will be given to Precinct, watch, and squad assignment; command review, and firearms qualifications.

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<sup>2</sup> The taser and the less lethal shotgun with beanbag rounds are viewed differently from a use of force perspective. When used as a touch stun device, the taser is viewed as a lesser use of force than the use of OC spray and on a par with pain compliance techniques such as wrist locks and control holds. Because deployment of the taser probes carries a greater risk of injury, their use is viewed as a greater use of force than pain compliance techniques, but less than punches, kicks, or the use of impact weapons. The less lethal shotgun with beanbag rounds is placed at the same level as other impact weapons as a use of force. As with these other weapons, the use of force assessment will vary depending on the target area to which a beanbag round is applied.

- b) Sworn personnel must successfully complete a Department authorized training and certification course before they may use less lethal devices.
- c) Authorized officers may use only a Department-issued taser or less lethal shotgun with beanbag rounds.

## 2) APPLICATIONS OF LESS LETHAL OPTIONS

- a) Applications of less lethal options are expected to conform to the principles outlined in the respective taser and less lethal shotgun training and certification courses and be consistent with Department policy on the use of force.
- b) In deciding to deploy a less lethal option, officers should carefully evaluate conditions or factors they know or have reason to believe about subjects that may affect responses to the deployment or increase the indirect risks (such as injuries caused by a fall) of the deployment. Such conditions or factors include subjects who are very old or very young, pregnant, physically disabled, suffering from a debilitating illness or medical condition, or drug users. In such cases, the need to stop the behavior should clearly justify the potential for additional risks.
- c) In deciding to deploy a less lethal option, officers should carefully evaluate the environmental conditions and physical settings in which they confront subjects. These may include a subject's exposure to flammables such as gasoline, gunpowder, explosives, or alcohol-based pepper spray that may be ignited from a spark; or the subject's position near a fire, stairwell, or swimming pool where the risks of secondary injuries from incapacitation or falls may be increased.
- d) At the earliest practical opportunity, an SPD supervisor shall be notified of a potential or completed less lethal device application and shall determine if it is necessary to respond to the scene. Where the above-noted conditions or factors are involved, a supervisor shall respond to the scene, documenting the on-site presence in the use of force packet.

## 3) POST-APPLICATION PROCEDURES – TASER

- a) As in any use of force situation, whenever a taser is applied to an individual, officers shall determine if medical aid is required. Taser probes requiring removal from an individual's skin will be removed by qualified aid, medic, or medical personnel.
- b) Some circumstances warrant a supervisory presence and on-scene medical evaluation at the site of a taser application. Such circumstances can include uses of the taser on a very young or very old subject; where the officer has credible information on a subject's preexisting medical condition; on a subject found to have a special medical condition (for example, pregnancy) or a debilitating illness; or on a subject whose demeanor and response required repeated applications of the taser and/or other uses of force. In situations where three or more taser applications were required or where the noted factors or conditions of the taser subject are found to be present, a supervisor shall be called to the scene. In addition, an on-scene medical evaluation by

Seattle Fire Department shall be performed to determine if an underlying cause for the subject's demeanor and resistance may trigger unexpected health risks. These actions taken by officers and supervisors shall be documented in the incident report and use of force packet.

- c) Expended taser darts and cartridges will be handled as a biohazard and disposed of accordingly, unless preserved for evidentiary purposes. When the supervisor at the scene determines that there are exceptional circumstances involved in the taser application, the chain of command shall be notified. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected. In those circumstances, the taser, expended darts and cartridges will be retrieved and entered into evidence, filed under the case number of the incident.
- d) Officers and their supervisors are responsible for gathering information at the scene of a less lethal application necessary to comply with less lethal reporting and review requirements (see below).

#### 4) POST-APPLICATION PROCEDURES – LESS LETHAL SHOTGUN

- a) Because of the greater capacity for injury with the less lethal shotgun, officers shall arrange for transportation to a medical facility whenever an individual is struck with a beanbag round.
- b) The shotgun, expended beanbag rounds and cartridges will be gathered at the scene and entered into evidence under the case number of the incident. If the supervisor at the scene determines that there are exceptional circumstances involved in the use of the shotgun, the chain of command will be notified. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected.
- c) Officers and their supervisors are responsible for gathering information at the scene of a less lethal application necessary to comply with less lethal reporting and review requirements (see below).

#### 5) REPORTING THE USE OF LESS LETHAL OPTIONS

- a) Officers shall document field applications of less lethal devices as required by the Department use of force reporting procedures (see SPD Manual Section 1.149 – Reporting the Use of Force).
- b) Where special subject, setting, or environmental conditions or factors (such as those noted in 2 b and c above) are involved in the deployment, officers shall articulate the considerations affecting their selection of the less lethal option.
- c) The dataport feature of the taser records all applications of the device, including spark or function tests and uses during training. Taser officers

should adopt a practice of performing spark or function tests at the beginning of their shifts and of keeping track of their participation in training sessions. By consistently adhering to this practice, taser officers will have documentation of their non-field applications of the device.

6) REVIEWING THE USE OF LESS LETHAL OPTIONS

- a) The Department, through the Deputy Chief of Operations, shall ensure systematic review of taser applications using the dataport feature of the device.
- b) Taser officers shall make their tasers available for inspection at any time upon the request of a supervisor, the Advanced Training Unit, or the Office of Professional Accountability Internal Investigations Section.
- c) Use of a less lethal device under exceptional circumstances shall result in a review of the incident by the officer's chain of command, to the level of the Bureau Commander. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected.
- d) The chain of command review shall determine if further investigation or action regarding the incident may be necessary. In the case of the less lethal shotgun, the Department may convene a Firearms Review Board.

7) ONGOING LESS LETHAL QUALIFICATION AND CERTIFICATION

- a) Authorized users of a less lethal option shall qualify with their device(s) once per year. The Advanced Training Unit shall coordinate and maintain records on the annual re-qualification.
- b) Unauthorized absences from qualification training will terminate certification to use a less lethal option, until successful qualification occurs.
- c) Authorization for an officer to use less lethal options remains at the discretion of the Department and may be revoked at any time for violation of training guidelines, Department policies, or other reasons.



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